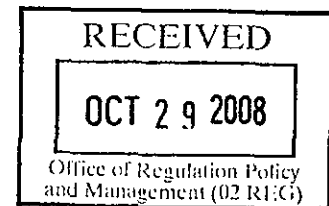


**Director, Regulations Management (02 REG)  
Department of Veterans Affairs  
810 Vermont Ave., N.W.  
Room 1068  
Washington, DC 20420**



**Re: Comments in response to "RIN 2900-AM92-VA Acquisition  
Regulation: Supporting Veteran – Owned and Service Disabled  
Veteran – Owned Small Business"**

**Before considering these comments, the VA is a unique entity as stated in its name, "The Department of Veteran Affairs." This one government entity should be the biggest advocate for veterans from the day they become a veteran until their death.**

**No other socio-economic group is devoid of race, gender or financial status and to belong to this socio-economic group (Veteran or a Service Disabled Veteran) a person had to honorably serve their country. Service Disabled Veterans received life long and life changing injuries in the service of their country, making them a unique subset of this group that should be honored and never forgotten.**

**This fact gets lost in bureaucracy, protection of the status-quo programs and unfounded fear of the loss of expediency and ease. The VA's first concern must be veterans to include SDVOSB and VOSB. Concerns for any other group, business entity, established program, concessions for ease and/or expediency should be secondary to the global support of veterans from their health needs to business success.**

**Issues 1:**

**The changes to the VAAR do not address the implementation of the VA strategic plan where it states:**

**1. (c) Require contracting officers to use SDVOSB's awarded standardization of Federal Supply Schedule (FSS) contracts placing orders directly with the SDVOSB contractors rather than the prime vendors (unless the prime is also a SDVOSB)**

**&**

2. (e) Encourage VA contracting officers to consider SDVOSB FSS contractors first when using FSS contracts, as provided in Federal Acquisition Regulations (FAR) 8.405-5(b) (and see paragraph 1.(e) of the implementation strategy.

**This is a KEY COMPONENT as it stands today, once a SDVOSB achieves a FSS the SDVOSB/VOSB loses any preference in relation to the same or a like product on a FSS that is held by a Prime Vendor / Big Business or any businesses that are “NOT SDVOSB / VOSB” who also possesses a FSS contract. A SDVOSB / VOSB should have the SAME preference that is given to them on Open Market Items. The SDVOSB / VOSB has followed the rules, proven themselves and obtained an FSS contract. Why wouldn't the VA promote and require these proven SDVOSB / VOSB be the #1 source and priority? Is this not the goal of PL 109.461?**

**Without specifically putting SDVOSB / VOSB as the priority to include both standardization contracts and FSS contracts in the VAAR and FAR nothing will change and Big Business / Prime Vendors will still rule over the SDVOSB / VOSBs'. If a SDVOSB / VOSB are not selected, then the awarding contracting officer must justify why another vendor was chosen.**

**The Proposed change does state:**

*Section 808.603 Purchase Priorities*

We interpret section 8128 and the legislative history to mean that SDVOSBs and VOSBs must receive priority in VA contracting opportunities without regard to other provisions of law concerning contracting preferences. This interpretation conflicts with the current contracting priorities in law, and as implemented in the FAR, for Federal agencies buying from FPI. VA finds that section 8128, being directly applicable solely to VA and providing authority without regard to any other provision of law, requires VA contracting officers to have the authority to override other statutory contracting preferences to provide priority to SDVOSBs and VOSBs to meet VA's socioeconomic goals for such concerns. Therefore, proposed section 808.603 is the only means available to VA to implement the requirement in section 8128 that veterans' small businesses have priority in VA acquisitions that would normally be awarded under FPI.

*Section 813.106 Soliciting Competition, Evaluation of Quotations or Offers, Award and Documentation*

This section would clarify that contracting officers may use other than competitive procedures to enter into a contract with an SDVOSB / VOSB when the amount is less than the simplified acquisition threshold not to exceed \$5 million. Contracting officers would give first consideration to SDVOSBs.

**Section 808.603 and 813.106 are in conflict with the VA strategic plan 2. (e) which was referenced in the proposed change.**

**Summary: SDVOSB and VOSB should have priority regardless of Open Market, FSS or awarded standardization contracts. Anything less is not in full support of PL109-461 or veterans that the VA exists to serve.**

**Issue 2:**

**The below statement falls short and its intent is an insult to Veterans and their wives who both work to make their company a success.**

Revise the eligibility definition for “service-disabled veteran-owned small business concerns” to include a spouse who obtains ownership rights upon the death of a 100 percent service-disabled veteran or a veteran who died as a direct result of a service-connected injury for a period of 10 years unless the spouse remarries or sells the interest in the business.

**Any spouse of a Veteran regardless of percentage should be allowed to continue with the status of the deceased Veteran for the 10 year period or until they remarry or sell the business business.**

**Issue 3:**

819.7103 Non-affiliation.

The determination of affiliation is a function of the Small Business Administration.

**Unless specifically specified SBA may classify participants in a Mentor Protégé’ Program as a Joint Venture. It is noted on the SBA website that the SBA specifically excludes its 8a program from Joint Ventures. If this is not addressed it could undermine the Program by reliance on a SBA definition that has no vested interest in the VA Mentor Protégé programs success or VA Programs in general.**

**Issue 4:**

819.7108 Application process

Evaluations will consider the nature and extent of technical and managerial support as well as any proposed financial assistance in the form of equity investment, loans, joint-venture, and traditional subcontracting support.

819.7110 Developmental assistance.

The forms of developmental assistance a Mentor can provide to a include, but are not limited to, the following:

- (a) Guidance relating to—
  - (1) Financial management;
  - (2) Organizational management;
  - (3) Overall business management/ planning;
  - (4) Business development; and
  - (5) Technical assistance.

- (b) Loans.
- (c) Rent-free use of facilities and/or equipment.
- (d) Property.
- (e) Temporary assignment of personnel for training.
- (f) Any other types of permissible, mutually beneficial assistance.

**Given the Definitions of a Joint Venture by the SBA, it could be argued that a Mentor Protégé program where the participants are classified as a Joint Venture either by their own agreement or by the SBA would fall into the restrictions of a Joint Venture. i.e. 3 bids in 2 years and the 51 / 49 % work and investment. It is not the intent of the Mentor Protégé program to be restricted by the Joint Venture guidelines.**

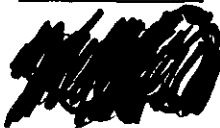
**Comment:**

**Any Changes to the VAAR and/or FAR are only as good as its implementation and enforcement. Currently the VA states it cannot track who is buying what or from whom. If this is true, the enforcement of such rules is very difficult. If the VA can not track its performance on awards and the subsequent actual purchases, there is no performance process. This encourages business as usual with no or little repercussions for not following through on awards given. (BPAs, National Contracts, FSS schedule compliance, SDVOSB/VOSB etc verses Big Business awards, compliance or ordering with SDVOSB direct verse with Prime Vendors.)**

**It has also been stated by VA personnel that Contracting Officers and Purchase Card holders are not always aware of Awards or sensitive to SDVOSB /VOSB preferences. Providing an award without educating ALL personnel who purchase a said items or services then tracking and enforcing compliance of the awards or program should be considered unacceptable by the VA.**

**Commercial Group Purchasing Organizations (GPOs) and Hospital Groups (IDNs) track this type of data on a regular basis and drive compliance with all their programs. These tracking systems exist commercially and if they are not available to the VA, it should be a priority to implement such as system. Implementation would insure compliance of awards, compliance to the FAR / VAAR as well as provide accountability and a means of enforcing the VA's own policies, regulations and the Law.**

**Submitted By:**



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